

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 10-18 and 56-88 are pending in the application, with 10, 56, 65, 74, 83, 85, 87 being independent claims. New claims 83-88 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 101

Claim 74 stands rejected under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The Office Action asserts that claim 74 "claims the non-statutory subject matter of a computer program logic" (Office Action, p. 3). The Office Action relies on *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 to state that "Data structures not claimed as embodied in computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer." (Id.).

Claim 74 claims "a computer program product comprising a computer readable medium having computer program logic recorded thereon for enabling a processor to provide a voice interface." Because "the computer program logic" of claim 74 is embodied in a computer-readable medium, the statement "Data structures not claimed as embodied in computer-readable medium are descriptive material per se and are not

statutory because they are not capable of causing functional change in the computer" is not applicable to claim 74. Accordingly, claim 74 is directed to statutory subject matter.

The Federal Circuit stated clearly and unambiguously that "[w]ithout question, software code *alone* qualifies as an invention eligible for patenting under these categories, *at least as processes.*" *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1338-39 (Fed. Cir. 2005) (emphasis added). When referring to "these categories," the court was clearly referring to the categories enumerated in 35 U.S.C. §101. In applying that statement to the facts in the *Eolas* case, the Federal Circuit was charged with determining whether software on a disk could be construed as a component of a patented invention under 35 U.S.C §271(f). The court found that the software was patentable, both alone and as an article of manufacture because it was on a disk. *Eolas* does not stand for the proposition that any claim directed to a new and useful process, which is capable of being implemented solely in software, is unpatentable *per se*. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Objections to the Claims

Claims 75-80 were objected to because of an informality. Claims 75-80 have been amended as suggested by the Examiner. Reconsideration and withdrawal of the objections are therefore respectfully requested.

Rejections under 35 U.S.C. § 102

Claims 10, 56, 65 and 74 stand rejected under 35 U.S.C. 102(e) as being anticipated by Surace et al. (U.S. 2005/0091056). Applicants respectfully traverse these rejections.

Surace does not teach each and every feature of amended independent claims 10, 56, 65, and 74. Claim 10 recites "enabling the user to specify individual character traits desired in a virtual host, wherein the specified character traits are used to select a consistent personality for the virtual host." As recited in the preamble "the user" refers to the user for which a voice user interface is provided.

In Surace, "the subscriber [is allowed] to select a virtual assistant and, thus, a voice user interface with a particular personality." (Surace, Paragraph [0102]). Surace further describes that "the subscriber selects from several different personalities when selecting a virtual assistant." (Surace, Paragraphs [0112]-[0113]). Thus, the user of the voice interface can only select from predefined virtual assistants and cannot select character traits of a virtual assistant.

Surace also describes "a process for implementing a computer-implemented voice user-interface with personality." (Surace Paragraph [0039]). The process of implementing a computer-implemented voice user interface in Surace occurs prior to the user's interaction with the voice user-interface. Because the process occurs before the voice user-interface is implemented and before a user interacts with the voice user-interface, the process for implementing the voice user interface in Surace does not "enabl[e] the user [of the voice interface] to specify individual character traits desired in a virtual host, wherein the specified character traits are used to select a consistent personality for the virtual host."

Thus, Surace does not teach or suggest "enabling the user [of the voice interface] to specify individual character traits desired in a virtual host, wherein the specified character traits are used to select a consistent personality for the virtual host" as recited in

independent claim 10. Surace also does not teach or suggest "wherein the individual character traits are specified by the end user of the voice interface," as recited in amended independent claims 56 and 74. Further, Surace does not teach or suggest logic "to enable the end user to specify individual character traits desired in a virtual host," as recited in amended independent claim 65.

For at least these reasons, independent claims 10, 56, 65, and 74 are patentable over Surace. Reconsideration and withdrawal of the rejections are therefore respectfully requested.

Rejections under 35 U.S.C. § 103

Claim 11, 57, 66, and 75 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 6,301,339 to Staples *et al.* ("Staples"). Claim 12, 58, 67, and 76 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,189,702 to Sakurai *et al.* ("Sakurai"). Claim 13, 59, 68 and 77 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,768,508 to Eikeland ("Eikeland"). Claim 14, 60, 69, and 78 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,911,043 to Duffy *et al.* ("Duffy"). Claim 15, 61, 70 and 79 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 6,366,882 to Bijl *et al.* ("Bijl"). Claims 16-18, 62-64, 71-73 and 80-82 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 4,531,184 to Wigan *et al.* ("Wigan"). Applicants respectfully traverse these rejections.

Staples, Sakurai, Eikeland, Duffy, Bijl, and Wigan do not overcome the deficiencies of Surace relative to independent claims 10, 56, 65, and 74 described above. Claims 11-18 depend from claim 10; claims 57-64 depend from claim 56; claims 66-73 depend from claim 65; and claims 75-82 depend from claim 74. For at least these reasons, and further in view of their own features, claims 11-18, 57-64, 66-73, and 75-82 are patentable over Surace, Staples, Sakurai, Eikeland, Duffy, Bijl, and Wigan. Reconsideration and withdrawal of the rejections are therefore respectfully requested.

New Claims

New claims 83-88 relate to querying a user for permission to adjust a conversational style of the virtual host if user interaction history reaches a threshold and adjusting the conversational style if the user grants permission. Support for claims 83-88 are found in the Specification, for example, at Paragraphs [0090]-[0094]. Surace, Staples, Sakurai, Eikeland, Duffy, Bijl, and Wigan do not teach or suggest all of the features of claims 83-88, either alone or in combination. Accordingly, claims 83-88 are believed to be in condition for allowance.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will

expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "Lori A. Gordon". The signature is stylized with a large, looped "L" and "G".

Lori A. Gordon
Attorney for Applicants
Registration No. 50,633

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1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600